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Counsel for Plaintiffs

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA

DENALI NICOLE SMITH, on behalf of herself
and others similarly situated, MEGAN E.
HODGE, on behalf of herself and on behalf of
her minor children, I.H. and B.H., and others
similarly situated,

Plaintiffs,

vs.

MICHAEL DUNLEAVY, in his official
capacity of Governor of the State of Alaska,
KEVIN CLARKSON, in his official capacity as
Attorney General of the State of Alaska, MIKE
BARNHILL, in his official capacity as Interim
Commissioner of the State of Alaska,
Department of Revenue, ANNE WESKE, in her
official capacity as Director of the Permanent
Fund Division, State of Alaska, Department of
Revenue,

Defendants.

Case No. 3:19-cv-00298 HRH
MOTION FOR LEAVE TO AMEND
COMPLAINT

Plaintiffs, by and through counsel, now move for leave to amend the Complaint to 1) add three plaintiffs, 2) change the name of the now resigned Commissioner of Revenue to the Interim Commissioner of Revenue Mike Barnhill, and 3) to articulate the remedies requested with greater specificity.¹

Pursuant to Federal Rule of Civil Procedure 15(a)(2), “a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” After an answer has been filed, leave to amend should be granted unless amendment would cause prejudice to the opposing party, is sought in bad faith, is futile, or creates undue delay. *Johnson v. Mammoth Recreations*, 975 F.2d 604, 607 (9th Cir. 1992). The Ninth Circuit Court of Appeals has held that “Rule 15’s policy favoring amendments is applied liberally by us.” *Ascon Properties, Inc. v. Mobil Oil Co.*, 866 F.2d 1149, 1160 (9th Cir. 1989). Here, amendment is not in bad faith, is not futile, would not create undue delay, nor will amendment of the complaint prejudice Defendants.

In the absence of a justifying reason, the court’s discretion does not broadly permit denial of leave to amend. In this matter, good cause exists for leave to amend to be granted, and no justification exists for denial. Defendants will not be prejudiced if an amendment is allowed at this early stage of the proceedings. Discovery has not begun. There are no factors present that would warrant exercise of the court’s discretion to deny

¹ Counsel contacted Defendants through their counsel on January 9, 2020, to obtain Defendant’s position on the instant motion; Defendants’ counsel indicated that the instant motion is opposed.

leave to amend. Accordingly, Plaintiffs request that the court grant to Motion for Leave to Amend the Complaint and accept the First Amended Complaint as filed.

RESPECTFULLY SUBMITTED this 11th day of January 2020 at Anchorage,
Alaska.

By: _____ /s/
Caitlin Shortell #0405027

By: _____ /s/
Heather Gardner #0111079

CERTIFICATE OF SERVICE

This certifies that on this 11th day of January, 2020, a copy of the foregoing document was served via electronic service upon:

Rebecca Cain
State of Alaska, Office of the Attorney General
1031 W. 4th Avenue Suite 200
Anchorage, AK 99501

Attorney for Defendants

/s/ Heather Gardner